

United States Customs Service, Treasury

§ 111.19

(5) Any conduct which would be deemed unfair in commercial transactions by accepted standards; or

(6) A reputation imputing to the applicant criminal, dishonest, or unethical conduct, or a record of that conduct.

§ 111.17 Review of the denial of a license.

(a) *By the Assistant Commissioner.* Upon the denial of an application for a license, the applicant may file with the Assistant Commissioner, in writing, a request that further opportunity be given for the presentation of information or arguments in support of the application by personal appearance, or in writing, or both. This request must be received by the Assistant Commissioner within 60 calendar days of the denial.

(b) *By the Secretary.* Upon the decision of the Assistant Commissioner affirming the denial of an application for a license, the applicant may file with the Secretary of the Treasury, in writing, a request for any additional review that the Secretary deems appropriate. This request must be received by the Secretary within 60 calendar days of the Assistant Commissioner's affirmation of the denial of the application for a license.

(c) *By the Court of International Trade.* Upon a decision of the Secretary of the Treasury affirming the denial of an application for a license, the applicant may appeal the decision to the Court of International Trade, provided that the appeal action is commenced within 60 calendar days after the date of entry of the Secretary's decision.

§ 111.18 Reapplication for license.

An applicant who has been denied a license may reapply at any time by complying with the provisions of § 111.12.

§ 111.19 Permits.

(a) *General.* Each person granted a broker's license under this part will be concurrently issued a permit for the district in which the port through which the license was delivered to the licensee (see § 111.15) is located and without the payment of the \$100 fee required by § 111.96(b), if it is shown to

the satisfaction of the port director that the person intends to transact customs business within that district and the person otherwise complies with the requirements of this part.

(b) *Submission of application for initial or additional district permit.* A broker who intends to conduct customs business at a port within another district for which he does not have a permit, or a broker who was not concurrently granted a permit with the broker's license under paragraph (a) of this section, and except as otherwise provided in paragraph (f) of this section, must submit an application for a permit in a letter to the director of the port at which he intends to conduct customs business. Each application for a permit must set forth or attach the following:

(1) The applicant's broker license number and date of issuance;

(2) The address where the applicant's office will be located within the district and the telephone number of that office;

(3) A copy of a document which reserves the applicant's business name with the state or local government;

(4) The name of the individual broker who will exercise responsible supervision and control over the customs business transacted in the district;

(5) A list of all other districts for which the applicant has a permit to transact customs business;

(6) The place where the applicant's brokerage records will be retained and the name of the applicant's designated recordkeeping contact (see §§ 111.21 and 111.23); and

(7) A list of all persons who the applicant knows will be employed in the district, together with the specific employee information prescribed in § 111.28(b)(1)(i) for each of those prospective employees.

(c) *Fees.* Each application for a permit under paragraph (b) or (f) of this section must be accompanied by the \$100 and \$125 fees specified in §§ 111.96(b) and (c). The \$125 fee specified in § 111.96(c) also must be paid in connection with the issuance of an initial permit concurrently with a license under paragraph (a) of this section.

(d) *Responsible supervision and control—*(1) *General.* The applicant for a district permit must have a place of

business at the port where the application is filed, or must have made firm arrangements satisfactory to the port director to establish a place of business, and must exercise responsible supervision and control over that place of business once the permit is granted. Except as otherwise provided in paragraph (d)(2) of this section, the applicant must employ in each district for which a permit is granted at least one individual broker to exercise responsible supervision and control over the customs business conducted in the district.

(2) *Exception to district rule.* If the applicant can demonstrate to the satisfaction of Customs that he regularly employs at least one individual broker in a larger geographical area in which the district is located and that adequate procedures exist for that individual broker to exercise responsible supervision and control over the customs business conducted in the district, Customs may waive the requirement for an individual broker in that district. A request for a waiver under this paragraph, supported by information on the volume and type of customs business conducted, or planned to be conducted, and supported by evidence demonstrating that the applicant is able to exercise responsible supervision and control through the individual broker employed in the larger geographical area, must be sent to the port director in the district in which the waiver is sought. The port director will review the request for a waiver and make recommendations which will be sent to the Office of Field Operations, Customs Headquarters, for review and decision. A written decision on the waiver request will be issued by the Office of Field Operations and, if the waiver is granted, the decision letter will specify the region covered by the waiver.

(e) *Action on application; list of permitted brokers.* The port director who receives the application will issue a written decision on the permit application and will issue the permit if the applicant meets the requirements of paragraphs (b), (c), and (d) of this section. If the port director is of the opinion that the permit should not be issued, he will submit his written rea-

sons for that opinion to the Office of Field Operations, Customs Headquarters, for appropriate instructions on whether to grant or deny the permit. Each port director will maintain and make available to the public an alphabetical list of brokers permitted through his port.

(f) *National permit.* A broker who has a district permit issued under paragraph (a) or paragraph (e) of this section may apply for a national permit for the purpose of transacting customs business in any circumstance described in § 111.2(b)(2)(i). An application for a national permit under this paragraph must be in the form of a letter addressed to the Office of Field Operations, U.S. Customs Service, Washington, DC 20229, and must:

(1) Identify the applicant's broker license number and date of issuance;

(2) Set forth the address and telephone number of the office designated by the applicant as the office of record for purposes of administration of the provisions of this part regarding all activities of the applicant conducted under the national permit. That office will be noted in the national permit when issued;

(3) Set forth the name, broker license number, office address, and telephone number of the individual broker who will exercise responsible supervision and control over the activities of the applicant conducted under the national permit; and

(4) Attach a receipt or other evidence showing that the fees specified in §§ 111.96(b) and (c) have been paid at the port through which the applicant's broker license was delivered (see § 111.15).

(g) *Review of the denial of a permit—(1) By the Assistant Commissioner.* Upon the denial of an application for a permit under this section, the applicant may file with the Assistant Commissioner, in writing, a request that further opportunity be given for the presentation of information or arguments in support of the application by personal appearance, or in writing, or both. This request must be received by the Assistant Commissioner within 60 calendar days of the denial.

(2) *By the Court of International Trade.* Upon a decision of the Assistant Commissioner affirming the denial of an application for a permit under this section, the applicant may appeal the decision to the Court of International Trade, provided that the appeal action is commenced within 60 calendar days after the date of entry of the Assistant Commissioner's decision.

Subpart C—Duties and Responsibilities of Customs Brokers

§ 111.21 Record of transactions.

(a) Each broker must keep current in a correct, orderly, and itemized manner records of account reflecting all his financial transactions as a broker. He must keep and maintain on file copies of all his correspondence and other records relating to his customs business.

(b) Each broker must comply with the provisions of this part and part 163 of this chapter when maintaining records that reflect on his transactions as a broker.

(c) Each broker must designate a knowledgeable company employee to be the contact for Customs for broker-wide customs business and financial recordkeeping requirements.

§ 111.22 [Reserved]

§ 111.23 Retention of records.

(a) *Place and period of retention—(1) Place.* Records must be retained by a broker in accordance with the provisions of this part and part 163 of this chapter within the broker district that covers the Customs port to which they relate unless the broker chooses to consolidate records at one or more other locations, and provides advance notice of that consolidation to Customs, in accordance with paragraph (b) of this section.

(2) *Period.* The records described in paragraph (a)(1) of this section, other than powers of attorney, must be retained for at least 5 years after the date of entry. Powers of attorney must be retained until revoked, and revoked powers of attorney and letters of revocation must be retained for 5 years after the date of revocation or for 5 years after the date the client ceases to

be an "active client" as defined in § 111.29(b)(2)(ii), whichever period is later. When merchandise is withdrawn from a bonded warehouse, records relating to the withdrawal must be retained for 5 years from the date of withdrawal of the last merchandise withdrawn under the entry.

(b) *Notification of consolidated records—(1) Applicability.* Subject to the requirements of paragraph (b)(2) of this section and except when a restriction applies under § 163.5(b) of this chapter, the option of maintaining records on a consolidated system basis is available to brokers who have been granted permits to do business in more than one district.

(2) *Form and content of notice.* If consolidated storage is desired by the broker, he must submit a written notice addressed to the Director, Regulatory Audit Division, U.S. Customs Service, 909 S.E. First Avenue, Miami, Florida 33131. The written notice must include:

(i) Each address at which the broker intends to maintain the consolidated records. Each such location must be within a district where the broker has been granted a permit;

(ii) A detailed statement describing all the records to be maintained at each consolidated location, the methodology of record maintenance, a description of any automated data processing to be applied, and a list of all the broker's customs business activity locations; and

(iii) An agreement that there will be no change in the records, the manner of recordkeeping, or the location at which they will be maintained, unless the Director, Regulatory Audit Division, in Miami is first notified.

§ 111.24 Records confidential.

The records referred to in this part and pertaining to the business of the clients serviced by the broker are to be considered confidential, and the broker must not disclose their contents or any information connected with the records to any persons other than those clients, their surety on a particular entry, and the Field Director, Regulatory Audit Division, the special agent in charge, the port director, or other duly accredited officers or agents